

☐ UNCLASSIFIED☐ INTERNAL
USE ONLY☐ CONFIDENTIAL☐ SECRET

Approved For Release 2002/09/05 : CIA-RDP86-00101R000100030020-9

SUBJECT: (Optional)

FROM:

Legislative Counsel
6D15 HQ

EXTENSION

NO.

DATE

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across columns after each comment.)

1. A/DDA, Mr. Malanick
7D24

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The attached draft of Title I of the charter legislation was reviewed by the Director on Wednesday, 23 November. Pursuant to his direction, we are preparing a final draft to be ready for the Director's approval Tuesday, 29 November. If you have any major concerns with the provisions of this draft, please get back to [redacted] in time to meet the Director's deadline.

I am enclosing for your information a short descriptive outline of the major provisions which we envisage will be included in various titles of the charter.

This draft, after approval by the Director, will be used as a working paper for discussions outside the Agency.

George L. Cary

NATIONAL INTELLIGENCE ACT OF 1978

TITLE I -- FOREIGN INTELLIGENCE ACTIVITIES

Friday - 25 November 1977

NATIONAL INTELLIGENCE ACT OF 1978

TITLE I (Foreign Intelligence Activities) will include the basic authorities according to which the IC is established and under which the DCI, the CIA and the other agencies within the Community conduct foreign intelligence activities. The title will not include counterintelligence nor will it contain restrictions on intelligence activities. The title, in addition, will establish the positions of DCI, DDCI and four Deputies with identified functional responsibilities; and the Office of the Director, within which will be the four "functional Deputies." The DCI will be granted specific authorities, among other things, to gather, collect, produce and disseminate foreign intelligence; to approve the consolidated budget for the IC; to levy collection tasks; to head the CIA; to protect sources and methods; and to ensure implementation of special activities. The title also will provide for requirements relating to appropriations for intelligence activities, reprogramming and unvouchered funds authority. Finally, there will be provisions for congressional oversight, the IOB and reporting on violations.

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TITLE II (Counterintelligence) will define counterintelligence and will set forth the authorities, duties and areas of responsibilities for counterintelligence activities. Insofar as there will be restrictions exclusively applicable to counterintelligence activities, such restrictions will be included in this title.

TITLE III (CIA) will provide for the establishment of the Agency and will grant to it authority, among other things, to engage in foreign intelligence and, within the limitations in title II, foreign counterintelligence. Specifically, the Agency will be authorized to collect, analyze, produce and disseminate intelligence; to perform services of common concern; to carry out special activities; to carry out or contract for research, development and procurement of systems relating to the aforementioned functions; to protect facilities, personnel, etc. (including firearms authority); to conduct necessary support activities (including cover and proprietary authority); and to conduct liaison activities. There will be provisions for administrative authorities (e.g., leasing and purchasing); travel and other allowances; death gratuity; and provisions to protect the names, organization, etc. of the Agency and its employees. Only such restrictions as are applicable only to the CIA would be included in this title.

TITLE IV (NSA) would set forth the statutory authority for, and limitations on the National Security Agency as well as the controlling provisions for communications activities by Government entities and for the protection thereof. The title will make clear the role of the DCI as to these activities.

TITLE V (FBI)

TITLE VI (National Reconnaissance Activities), will set forth authorities, duties and responsibilities for reconnaissance activities much as title IV for communications activities and security.

TITLE VII (Restrictions on Intelligence Activities and Individual Rights), will include whatever restrictions as apply to the IC generally or to intelligence activities generally, both foreign intelligence and foreign counterintelligence, such as restrictions on activities vis-a-vis U.S. persons, on retention of certain information, and electronic surveillance.

TITLE VIII (Conforming amendments) will operate to effect the necessary changes to existing statutes (the CIA Act, the National Security Act, etc.); both in terms of what current law will remain (e.g., the Director's alien-admission authorities, and, depending on the funding provisions as are included in title I for the DCI, certain provisions in section 5 of the present CIA Act), and what will be repealed through enactment of the other titles of this Act. Also, this title would pick up repeal of the Hughes-Ryan amendment (in light of the congressional oversight provisions in title I); and the title would provide statutory provisions for the protection of intelligence sources and methods if the decision is made to enact such law.

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NATIONAL INTELLIGENCE ACT OF 1978

TITLE I Foreign Intelligence Activities
TITLE II Counterintelligence Activities
TITLE III Central Intelligence Agency
TITLE IV National Security Agency
TITLE V Federal Bureau of Investigations
TITLE VI National Reconnaissance Activities
TITLE VII Restrictions on Intelligence Activities
TITLE VIII Conforming Amendments*

*E.g., Repeal of §102 of the National Security Act of 1947, as amended; sources and methods legislation (Title 18 U.S.C.); repeal of §662 of the Foreign Assistance Act of 1961, as amended; amendments to House and Senate rules; necessary amendments to the Central Intelligence Agency Act of 1949, as amended; and retention in Title I of this Act, of the alien-admission authority in section 7 of the CIA Act.

TITLE I -- Foreign Intelligence Activities

- Sec. 101. Statement of Purposes
- Sec. 102. Definitions
- Sec. 103. Director, Deputy Director of Central Intelligence
and Functional Deputy Directors
- Sec. 104. Office of the Director of Central Intelligence
- Sec. 105. General Authorities and Responsibilities
- Sec. 106. Authorities and Duties of the Director of Central
Intelligence
- Sec. 107. Requirements Relating to Appropriations for Foreign
Intelligence Activities
- Sec. 108. Special Activities and Sensitive Collection Operations
- Sec. 109. Reporting on Violations; Intelligence Oversight Board
- Sec. 110. Reporting to the Congress

TITLE I -- FOREIGN INTELLIGENCE ACTIVITIES

STATEMENT OF PURPOSES

Sec. 101. It is the purpose of this Title --

(a) to grant authority and assign responsibility for foreign intelligence activities to ensure that the Government shall have the intelligence information and analysis necessary to make informed decisions regarding the national security of the United States;

(b) to ensure that foreign intelligence activities of the United States are properly and effectively directed, regulated, coordinated, and administered;

(c) to authorize and provide effective oversight for special activities in support of national foreign policy objectives, and to ensure that such activities are properly approved and effectively directed;

(d) to provide for the effective oversight of foreign intelligence activities of the United States, and to ensure that such activities are conducted in accordance with the Constitution and laws of the United States; and

(e) to provide for the appointment of a Director, a Deputy Director of Central Intelligence and functional Deputy Directors, and to establish the authorities and duties of the Director.

Sec. 102. As used in this Title --

(a) The term "foreign intelligence" means: information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, or relating to international terrorist activities, but not including foreign counterintelligence.

(b) The term "foreign counterintelligence" means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, international terrorist activities or assassinations conducted for or on behalf of foreign powers, organizations or persons, and activities conducted abroad to protect national security information and its means of collection from detection by or disclosure to foreign powers, organizations or persons, but does not include personnel, physical, document or communications security programs.

(c) The term "foreign intelligence activity" means any activity ~~undertaken~~ by an agency within the Intelligence Community relating to the collection, processing, analysis, production, coordination or dissemination of foreign intelligence, and any activity in support thereof.

(d) The term "Intelligence Community" means:

- (1) The Central Intelligence Agency;
- (2) The National Security Agency;
- (3) The Defense Intelligence Agency;
- (4) Offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
- (5) Foreign intelligence elements of the military services;
- (6) The Bureau of Intelligence and Research of the Department of State;
- (7) Foreign intelligence elements of the Federal Bureau of Investigation;
- (8) Foreign intelligence elements of the Department of the Treasury;

(9) Foreign intelligence elements of the Department of Energy;

(10) Foreign intelligence elements of the Drug Enforcement Administration;

(11) The Office of the Director of Central Intelligence; and

(12) Such other entities as may be engaged in foreign intelligence activities and as designated by the President in Executive Order.

(e) The term "international terrorist activity" means any activity which:

(1) involves:

(i) killing, causing serious bodily harm to, or kidnapping one or more individuals, or

(ii) violent destruction of property, or

(iii) an attempt or credible threat to commit acts specified in subparagraphs (i) or (ii) above; and

(2) appears intended to endanger a protectee of the Secret Service or the Department of State or to further political, social or economic goals by:

(i) intimidating or coercing a civilian population or any segment thereof,

(ii) influencing the policy of a government or international organization by intimidation or coercion, or

(iii) obtaining widespread publicity for a group or its cause; and

(3) transcends national boundaries in terms of:

(i) the means by which it is accomplished,

(ii) the civilian population, government, or international organization it appears intended to coerce or intimidate, or

(iii) the locale in which its perpetrators operate or seek asylum.

(f) The term "intelligence sources and methods" means any information, regardless of its origin, that is classified pursuant to the provisions of a statute or Executive Order, or a regulation or a rule issued pursuant thereto as information requiring a specific degree of protection against unauthorized disclosure for reasons of national security and which, in the interest of the foreign intelligence activities of the United States, has been specifically designated by a department or agency of the United States Government which is authorized by law or by the President to engage in foreign intelligence activities for the United States as information concerning:

(1) methods of collecting foreign intelligence;

(2) sources of foreign intelligence, whether human, technical, or other; or

(3) methods and techniques of analysis and evaluation of foreign intelligence.

(g) The term "national foreign intelligence" means foreign intelligence collected under the authority of the Director of Central Intelligence by agencies within the Intelligence Community.

(h) The term "national security information" means official information or material designated pursuant to statute or Executive Order as requiring protection against unauthorized disclosure in the interest of the national security or foreign relations of the United States.

(i) The term "sensitive intelligence collection operation" means any foreign intelligence collection activity or activity in support thereof which the President determines carries a significant risk of causing serious harm to the national security or foreign relations of the United States if revealed.

(j) The term "special activity in support of national foreign policy objectives" means any activity conducted outside the United States which is designed to further official United States programs and policies abroad and which is planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activity, but not including foreign intelligence activities.

DIRECTOR, DEPUTY DIRECTOR OF CENTRAL
INTELLIGENCE AND FUNCTIONAL DEPUTY DIRECTORS

Sec. 103. (a) There shall be a Director of Central Intelligence (hereinafter in this Title referred to as "Director"), a Deputy Director of Central Intelligence and, within the Office of the Director, four functional Deputy Directors -- a Deputy Director for Resource management, a Deputy Director for Foreign Assessments, a Deputy Director for Collection Tasking and a Deputy Director for Administration (hereinafter in this Title referred to as "functional Deputy Directors"), all of whom shall be appointed by the President, by and with the advice and consent of the Senate; Provided, that no person may serve as Director or Deputy Director of Central Intelligence for a period of more than six years unless such person is reappointed by the President, by and with the consent of the Senate; and Provided further, that no person who has served as Director or as Deputy Director of Central Intelligence by such appointment may be appointed to such position for more than one additional six-year term.

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(b) The Deputy Director of Central Intelligence and the functional Deputy Directors shall assist the Director in furtherance of his authorities and duties under this Act, by performing such functions as the Director may from time to time assign or delegate. The Deputy Director of Central Intelligence shall act for, and exercise the powers of the Director in his absence or disability or in the event of a vacancy in the position of the Director. The Director shall designate the order in which the functional Deputy Directors shall act for and perform the functions of the Director during the absence or disability of both the Director and Deputy Director of Central Intelligence or in the event of vacancies in both of these offices.

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(c) The positions of Director and Deputy Director of Central Intelligence shall not be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status; Provided, that at no time shall more than three of the positions of Director, Deputy Director of Central Intelligence or functional Deputy Directors be occupied by commissioned officers of the armed services, whether in an active or retired status.

(d)(1) Any commissioned officer of the armed forces appointed as Director, Deputy Director of Central Intelligence or a functional Deputy Director shall, in the performance of the duties of such position:

(i) be subject to no supervision, control, restriction or prohibition (military or otherwise) other than would be applicable if the officer were a civilian in no way connected with the Department of Defense, a military department, or the armed forces of the United States or any component thereof; and

(ii) possess or exercise no supervision, control, powers or functions (other than as Director, Deputy Director of Central Intelligence or a functional Deputy Director) with respect to the Department of Defense, a military department, or the armed forces of the United States or any component thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in paragraph (1) of this subsection, the appointment to the office of Director, Deputy Director of Central Intelligence or a functional Deputy Director of such officer and his acceptance of and service in such an office, shall in no way affect any status, office, rank or grade he may occupy or hold in the armed forces, or any emolument, perquisite, right, privilege or benefit incident to or arising out of any such status, office, rank or grade. Any such officer, while serving in the office of Director, Deputy Director of Central Intelligence or a functional Deputy Director, shall be compensated from funds appropriated to the Director, at the rate established for such position.

(3) The rank or grade of any such officer, during any period such officer occupies the office of Director, Deputy Director of Central Intelligence or a functional Deputy Director, shall be in addition to the numbers and percentages authorized and appropriated for the military department of which such officer is a member.

(4) The Director shall be entitled to the same compensation prescribed by Section 5312 of Title 5, United States Code, for positions at level I of the Executive Schedule. If a commissioned officer of the armed forces is serving as Director, he shall be entitled to the difference, if any, between his regular military compensation (as defined in Section 101(25) of Title 37, United States Code) and the compensation prescribed by Section 5312 of Title 5, United States Code, for positions at level I of the Executive Schedule.

(5) The Deputy Director of Central Intelligence shall be entitled to the same compensation prescribed by Section 5313 of Title 5, United States Code, for positions at level II of the Executive Schedule. If a commissioned officer of the armed forces is serving as Deputy Director of Central Intelligence, he shall be entitled to the difference, if any, between his regular military compensation (as defined in Section 101(25) of Title 37, United States Code) and the compensation prescribed by Section 5313 of Title 5, United States Code, for positions at level II of the Executive Schedule.

(6) A functional Deputy Director shall be entitled to the same compensation prescribed by Section 5314 of Title 5, United States Code, for positions at level III of the Executive Schedule. If a commissioned officer of the armed forces is serving as a functional Deputy Director, he shall be entitled to the difference, if any, between his regular military compensation (as defined in Section 101(25) of Title 37, United States Code) and the compensation prescribed by Section 5314 of Title 5, United States Code, for positions at level III of the Executive Schedule.

OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE

Sec. 104. (a) There is established under the Director an Office of the Director of Central Intelligence (hereinafter in this Title referred to as the "Office of the Director") to assist the Director in performance of his authorities and duties under this Act.

(b) The Director is authorized to employ such persons as necessary for the Office of the Director to fulfill the duties assigned it.

GENERAL AUTHORITIES AND RESPONSIBILITIES

Sec. 105. (a) Subject to the provisions of this Act, and only as provided by this Act, the agencies within the Intelligence Community are authorized to engage in foreign intelligence activities and special activities in support of national foreign policy objectives, under the direction of the National Security Council.

(b) The agencies within the Intelligence Community shall support the Director in carrying out his authorities and duties under this Title; Provided, that agencies within the Intelligence Community that are integral entities of Federal departments also are authorized to produce departmental intelligence.

(c) Appropriate senior officials of agencies within the Intelligence Community, in discharging their responsibilities, shall ensure that all activities for which they are responsible are carried out in accordance with the Constitution and laws of the United States.

AUTHORITIES AND DUTIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE

Sec. 106. (a) The Director of Central Intelligence, under the direction of the National Security Council, shall be the principal intelligence officer of the United States, shall be the principal adviser to the President and to the National Security Council on foreign intelligence matters, and shall be the principal spokesman to the Congress for the Intelligence Community and on national foreign intelligence matters.

(b) In carrying out his duties under this Act the Director shall, under the direction of the National Security Council, have primary authority within the Government for foreign intelligence, and shall be responsible for the coordination of foreign intelligence activities of the Government.

(c) The Director shall head the Office of the Director and the Central Intelligence Agency according to the provisions of this Act.

(d) It shall be the duty of the Director to collect, produce, analyze, coordinate and disseminate, within the Government, foreign intelligence; Provided, that in carrying out these duties, the Director shall:

(1) have authority to levy analytical tasks on agencies within the Intelligence Community, and in so doing, the Director shall ensure that national foreign intelligence products are timely and relevant;

(2) have authority to levy collection tasks on agencies within the Intelligence Community to fulfill requirements and priorities established by the National Security Council;

(3) develop, consistent with the requirements and priorities established by the National Security Council, policies, objectives and other guidance for the Intelligence Community in anticipation of future foreign intelligence needs;

(4) promote and direct the development and maintenance of services of common concern to the Intelligence Community; and

(5) formulate policies with respect to intelligence arrangements with foreign governments, and coordinate intelligence relationships between the various agencies within the Intelligence Community and foreign intelligence or internal security services of foreign governments;

(6) establish, as appropriate and notwithstanding the provisions of any other law, committees or other advisory groups to assist in the execution of the foregoing responsibilities.

(e) The Director shall, under the provisions of this Act, ensure implementation of special activities in support of national foreign policy objectives and sensitive intelligence collection operations.

(f) Notwithstanding the provisions of any other law, the Director may, in his discretion, terminate the employment of any officer or employee of the Central Intelligence Agency or of the Office of the Director, whenever he shall deem such termination necessary or advisable in the interests of the United States, but such termination shall not affect the right of any such officer or employee to seek or accept employment elsewhere in the Government if declared eligible for such employment by the United States Civil Service Commission.

(g) The Director shall have full and exclusive authority for approval of the consolidated budget for the Intelligence Community submitted to the President through the Office of Management and Budget and, after approval by the President, the Director shall present the budget to the Congress.

(h) The Director shall be responsible for protecting intelligence sources and methods against unauthorized disclosure, and shall ensure the development and coordination of programs which properly protect intelligence sources and methods.

(i) The Director shall, on a continuing basis, review and evaluate all ongoing and proposed intelligence activities and special activities in support of national foreign policy objectives in order to ensure that such activities are carried out in accordance with the Constitution and laws of the United States.

(j) The Director shall act as the principal spokesman for the Intelligence Community to the public on matters concerning foreign intelligence activities.

(k) The Director shall participate with the Attorney General and the legal officers of the agencies within the Intelligence Community in the development of procedures required to be approved by the Attorney General governing the conduct of foreign intelligence activities.

(1) To assist the Director in the fulfillment of responsibilities assigned in this section, the heads of all Executive Branch departments and agencies, in accordance with law and relevant Attorney General procedures and Executive Orders, shall give the Director access to all information relevant to the national foreign intelligence needs of the United States.

REQUIREMENTS RELATING TO APPROPRIATIONS FOR FOREIGN INTELLIGENCE ACTIVITIES

Sec. 107. (a) No funds may be appropriated for any fiscal year beginning after September 30, 1978, for the purpose of carrying out any foreign intelligence activity unless such funds have been previously authorized for such activity by legislation enacted during the same fiscal year or the two fiscal years immediately preceding that for which they are appropriated, except that the foregoing limitation shall not apply to funds appropriated by any continuing resolution.

(b) The Director is authorized to:

(1) Transfer to and receive from other Government agencies such sums as may be approved by the Office of Management and Budget, for the performance of any of the authorities or duties authorized under this Title, and any other Government agency is authorized to transfer to or receive from the Director such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Director in accordance with this paragraph may be expended for the purposes and under the authority of this Title without regard to limitations of appropriations from which transferred;

(2) Exchange funds without regard to Section 543 of Title 31; and

(3) Reimburse other Government agencies for services or personnel assigned to the Office of the Director or to the Central Intelligence Agency, and such other Government agencies are authorized, without regard to provisions of law to the contrary, so to assign or detail any officer or employee for such duty.

(c) The Director shall establish guidelines under which proposed reprogramming of funds in the consolidated budget for the Intelligence Community shall require his prior approval; Provided, that the heads of each agency within of the Intelligence Community shall advise the Director of any proposed reprogramming falling within the guidelines; and Provided further, that the Director shall review each such proposal and his approval shall be required for any such reprogramming.

(d) The Director is authorized to maintain a fund to be known as the Reserve for Contingencies (hereinafter in this Section referred to as the "Reserve") and to credit to the Reserve only such newly appropriated monies as are specifically appropriated to the Director for the Reserve. The Director is authorized to expend funds from the Reserve in any fiscal year for the payment of emergency and extraordinary expenses incurred in connection with any foreign intelligence activity or special activity in support of national foreign policy objectives only if:

(1) the withdrawal of funds from the Reserve has been previously approved by the Office of Management and Budget; and

(2) the Appropriations Committees and the Select Committees on Intelligence of the House and the Senate are kept fully and currently informed of all withdrawals; Provided, that the foregoing shall not be construed as requiring the approval of any committee of the Congress prior to the implementation of any such activity.

(e) Any monies in the Reserve so approved for expenditure under the provisions of paragraph (d) of this Section but not actually expended for the specific purpose for which approved shall remain in or revert to the Reserve.

(f) Any activity funded from the Reserve which continues after the end of the fiscal year in which such activity was initiated shall be funded thereafter through the regular budgetary process at the earliest practicable time.

(g) The Director may expend funds appropriated to him for objects of a confidential, extraordinary or emergency nature, and such expenditures shall be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount certified therein.

SPECIAL ACTIVITIES AND SENSITIVE
COLLECTION ACTIVITIES

Sec. 108. (a) The National Security Council, in conjunction with the Director of Central Intelligence, shall review and make written recommendations to the President concerning each special activity in support of national foreign policy objectives (hereinafter in this Section referred to as "special activity") and each sensitive foreign intelligence collection operation (hereinafter in this Section referred to as "sensitive collection operation") or significant proposed change thereto.

(b) No funds may be expended for any special activity, or significant change thereto, unless and until the President has made a written finding that such activity or change is important to the national security of the United States and is consistent with the foreign policy goals of the United States.

REPORTING ON VIOLATIONS; INTELLIGENCE
OVERSIGHT BOARD

Sec. 109. (a) The heads of departments and agencies within the Intelligence Community and their Inspectors General and General Counsels shall be responsible for reporting in a timely manner to the Attorney General and to the Intelligence Oversight Board established by this Section, concerning any foreign intelligence activity brought to their attention which may constitute a violation of the Constitution or any law of the United States, or of any Presidential Directive; Provided, that the Attorney General and the Intelligence Oversight Board shall advise the President of any such activity which, in their view, constitutes a violation of the Constitution or any law of the United States; and Provided further, that the Attorney General, with due regard to his investigative and prosecutorial responsibilities, shall report periodically to the Committees on Intelligence of the Congress concerning such activities.

(b) The heads of departments and agencies within the Intelligence Community shall formulate and implement, in consultation with the Attorney General and the Intelligence Oversight Board, procedures to discover and report on activities that may constitute violations of the Constitution or laws of the United States, or of any Presidential Directive.

(c) Senior officials of agencies within the Intelligence Community shall report to the Attorney General evidence of possible violations of Federal criminal law by an employee of the agency, as well as evidence concerning such violations by any other person as to those Federal criminal laws specified in guidelines promulgated by the Attorney General.

(d) There shall be, under the direction of the President, an Intelligence Oversight Board (hereinafter in this Section referred to as the "Board"), consisting of three members appointed by the President from outside the Government; Provided, that no member of the Board shall have any financial or contractual relationships with any agency within the Intelligence Community; and Provided further, that one member shall be designated by the President as chairman.

(e) The Board shall receive and consider all reports by the Attorney General, the heads of any agency within the Intelligence Community, and the Inspectors General or General Counsels of any agency within the Intelligence Community submitted pursuant to paragraph (a) of this Section.

(f) Nothing in this section shall prohibit any employee of any agency within the Intelligence Community from reporting any matter described in paragraph (a) of this Section directly to the Attorney General or to the Intelligence Oversight Board.

(g) The Board is authorized to employ such personnel as may be necessary to carry out its functions under this Section; Provided, that no such person shall have any financial or contractual relationship with any agency within the Intelligence Community.

(h) The Board shall, upon the request of any member, be granted access to all information relevant to any activity covered by this Section in order to carry out its duties under this Act.

REPORTING TO THE CONGRESS

Sec. 110. (a) Consistent with all applicable authorities and duties, including those conferred by the Constitution upon the Executive and Legislative Branches, and with due consideration for the duties under law to protect intelligence sources and methods, the Director and heads of agencies within the Intelligence Community shall:

(1) Keep the Intelligence Committees of the House and the Senate fully and currently informed with respect to intelligence activities, including any significant anticipated activities which are the responsibility of, or engaged in, by such agency; Provided, that the Director shall report to the Intelligence Committees of the House and the Senate in a timely manner the special activities, and significant changes thereto, approved by the President; Provided further, that this does not constitute a condition precedent to the implementation of any such intelligence activity;

(2) Provide any information or document in the possession, custody or control of the agency or person paid by such department or agency, within the jurisdiction of the Intelligence Committees of the House or the Senate, upon the request of such Committee; and

(3) Report in a timely fashion to the Intelligence Committees of the House and the Senate information relating to intelligence activities that are illegal or improper and corrective actions that are taken or planned.

NATIONAL INTELLIGENCE ACT OF 1978

TITLE I -- INTELLIGENCE ACTIVITIES

Friday - 2 December 1977

PRECIS--NATIONAL INTELLIGENCE ACT OF 1978

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(c) to authorize and provide effective oversight for special activities in support of national foreign policy objectives, and to ensure that such activities are properly approved and effectively directed;

(d) to provide for the effective oversight of intelligence activities of the United States, and to ensure that such activities are conducted in accordance with the Constitution and laws of the United States; and

(e) to provide for the appointment of a Director, a Deputy Director of Central Intelligence and functional Deputy Directors, and to establish the authorities and duties of the Director.

DEFINITIONS

Approved For Release 2002/09/05 : CIA-RDP86-00101R000100030020-9

Sec. 102. As used in this Title --

(a) The term "intelligence" includes:

(1) "Foreign intelligence" which means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, or relating to international terrorist activities, but not including foreign counterintelligence; and

(2) "Foreign counterintelligence," which means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, international terrorist activities or assassinations conducted for or on behalf of foreign powers, organizations or persons, and activities conducted abroad to protect national security information and its means of collection from detection by or disclosure to foreign powers, organizations or persons, but not including personnel, physical, document or communications security programs.

(b) The term "intelligence activity" means any activity undertaken by an agency within the Intelligence Community relating to the collection, processing, analysis, production, coordination or dissemination of intelligence, and any activity in support thereof.

(c) The term "Intelligence Community" means:

(1) The Central Intelligence Agency;

(2) The National Security Agency;

(3) The Defense Intelligence Agency;

(4) Offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) Intelligence elements of the military services;

(6) The Bureau of Intelligence and Research of the Department of State;

(7) Intelligence elements of the Federal Bureau of Investigation;

(8) Intelligence elements of the Department of the Treasury;

(9) Intelligence elements of the Department of Energy;

(10) Intelligence elements of the Drug Enforcement Administration;

(11) The Office of the Director of Central Intelligence; and

(12) Such other entities as may be engaged in intelligence activities and as designated by the President in Executive Order.

(d) The term "international terrorist activity" means any activity which:

(1) involves:

(i) killing, causing serious bodily harm to, or kidnapping one or more individuals, or

(ii) violent destruction of property, or

(iii) an attempt or credible threat to commit acts specified in subparagraphs (i) or (ii) above; and

(2) appears intended to endanger a protectee of the Secret Service or the Department of State or to further political, social or economic goals by:

(i) intimidating or coercing a civilian population or any segment thereof,

(ii) influencing the policy of a government or international organization by intimidation or coercion, or

(iii) obtaining widespread publicity for a group or its cause; and

(3) transcends national boundaries in terms of:

(i) the means by which it is accomplished,

(ii) the civilian population, government, or international organization it appears intended to coerce or intimidate, or

(iii) the locale in which its perpetrators operate or seek asylum.

(e) The term "intelligence sources and methods" means information concerning (1) methods of collecting foreign intelligence or foreign counterintelligence; (2) sources of foreign intelligence or foreign counterintelligence, whether human, technical or other; or (3) methods and techniques of analysis and evaluation of foreign intelligence or foreign counterintelligence; regardless of its origin, that is classified or designated pursuant to the provisions of a statute or Executive Order, or a regulation or a rule issued pursuant thereto, as information requiring a specific degree of protection against unauthorized disclosure for reasons of national security or in the interests of the security of the intelligence activities of the United States.

X (f) The term "national intelligence" means intelligence collected under the authority of the Director of Central Intelligence by agencies funded in the National Foreign Intelligence Program budget.

(g) "National Foreign Intelligence Program" (hereinafter in this title referred to as "NFIP") means:

(1) The programs of the CIA;

(2) The Consolidated Cryptologic Programs, and the programs of the offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance except such elements as the Director and the Secretary of Defense agree should be excluded;

(3) The elements of the General Defense Intelligence Program and other programs of agencies within the Intelligence Community designated by the Director and the head of the department as national intelligence activities; and

(4) Activities of the Office of the Director of Central Intelligence;

but not including activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces.

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(h) The term "national security information" means official information or material designated pursuant to statute or Executive Order as requiring protection against unauthorized disclosure in the interest of the national security or foreign relations of the United States.

(i) The term "sensitive intelligence collection operation" means any intelligence collection activity or activity in support thereof which the President determines carries a significant risk of causing serious harm to the national security or foreign relations of the United States if revealed.

(j) The term "special activity in support of national foreign policy objectives" means any activity conducted outside the United States which is designed to further official United States programs and policies abroad and which is planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activity, but not including intelligence activities.

DIRECTOR, DEPUTY DIRECTOR OF CENTRAL
INTELLIGENCE AND FUNCTIONAL DEPUTY DIRECTORS

Sec. 103. (a) There shall be a Director of Central Intelligence (hereinafter in this Title referred to as "Director"), a Deputy Director of Central Intelligence and, within the Office of the Director, four functional Deputy Directors -- a Deputy Director for Resource Management, a Deputy Director for Foreign Assessments, a Deputy Director for Collection Tasking and a Deputy Director for Administration (hereinafter in this Title referred to as "functional Deputy Directors"), all of whom shall be appointed by the President, by and with the advice and consent of the Senate; Provided, that no person may serve as Director or Deputy Director of Central Intelligence for a period of more than six years unless such person is reappointed by the President, by and with the consent of the Senate; and Provided further, that no person who has served as Director or as Deputy Director of Central Intelligence by such appointment may be appointed to such position for more than one additional six-year term.

(b) The Deputy Director of Central Intelligence and the functional Deputy Directors shall assist the Director in furtherance of his authorities and duties under this Act, by performing such functions as the Director may from time to time assign or delegate. The Deputy Director of Central Intelligence shall act for, and exercise the powers of the Director in his absence or disability or in the event of a vacancy in the position of the Director. The Director shall designate the order in which the functional Deputy Directors shall act for and perform the functions of the Director during the absence or disability of both the Director and Deputy Director of Central Intelligence or in the event of vacancies in both of these offices.

(c) The positions of Director and Deputy Director of Central Intelligence shall not be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status; Provided, that at no time shall more than three of the positions of Director, Deputy Director of Central Intelligence or functional Deputy Directors be occupied by commissioned officers of the armed services, whether in an active or retired status.

(d)(1) Any commissioned officer of the armed forces appointed as Director, Deputy Director of Central Intelligence or a functional Deputy Director shall, in the performance of the duties of such position:

(i) be subject to no supervision, control, restriction or prohibition (military or otherwise) other than would be applicable if the officer were a civilian in no way connected with the Department of Defense, a military department, or the armed forces of the United States or any component thereof; and

(ii) possess or exercise no supervision, control, powers or functions (other than as Director, Deputy Director of Central Intelligence or a functional Deputy Director) with respect to the Department of Defense, a military department, or the armed forces of the United States or any component thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in paragraph (1) of this subsection, the appointment to the office of Director, Deputy Director of Central Intelligence or a functional Deputy Director of such officer and his acceptance of and service in such an office, shall in no way affect any status, office, rank or grade he may occupy or hold in the armed forces, or any emolument, perquisite, right, privilege or benefit incident to or arising out of any such status, office, rank or grade. Any such officer, while serving in the office of Director, Deputy Director of Central Intelligence or a functional Deputy Director, shall be compensated from funds appropriated to the Director, at the rate established for such position.

(3) The rank or grade of any such officer, during any period such officer occupies the office of Director, Deputy Director of Central Intelligence or a functional Deputy Director, shall be in addition to the numbers and percentages authorized and appropriated for the military department of which such officer is a member.

(4) The Director shall be entitled to the same compensation prescribed by section 5312 of Title 5, United States Code, for positions at level I of the Executive Schedule. If a commissioned officer of the armed forces is serving as Director, he shall be entitled to the difference, if any, between his regular military compensation (as defined in section 101(25) of Title 37, United States Code) and the compensation prescribed by section 5312 of Title 5, United States Code, for positions at level I of the Executive Schedule.

(5) The Deputy Director of Central Intelligence shall be entitled to the same compensation prescribed by section 5313 of Title 5, United States Code, for positions at level II of the Executive Schedule. If a commissioned officer of the armed forces is serving as Deputy Director of Central Intelligence, he shall be entitled to the difference, if any, between his regular military compensation (as defined in section 101(25) of Title 37, United States Code) and the compensation prescribed by section 5313 of Title 5, United States Code, for positions at level II of the Executive Schedule.

(6) A functional Deputy Director shall be entitled to the same compensation prescribed by section 5314 of Title 5, United States Code, for positions at level III of the Executive Schedule. If a commissioned officer of the armed forces is serving as a functional Deputy Director, he shall be entitled to the difference, if any, between his regular military compensation (as defined in section 101(25) of Title 37, United States Code) and the compensation prescribed by section 5314 of Title 5, United States Code, for positions at level III of the Executive Schedule.

OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE

Sec. 104. (a) There is established under the Director an Office of the Director of Central Intelligence (hereinafter in this Title referred to as the "Office of the Director") to assist the Director in performance of his authorities and duties under this Act.

(b) The Director is authorized to employ such persons as necessary for the Office of the Director to fulfill the duties assigned it.

GENERAL AUTHORITIES AND RESPONSIBILITIES

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"only"*
Sec. 105. (a) Subject to the provisions of this Act, and as provided by this Act, the agencies within the Intelligence Community are authorized to engage in intelligence activities and special activities in support of national foreign policy objectives, under the direction of the National Security Council.

(b) The agencies within the Intelligence Community shall support the Director in carrying out his authorities and duties under this Title; Provided, that agencies within the Intelligence Community that are integral entities of Federal departments also are authorized to collect and produce departmental intelligence. *Added*

(c) Appropriate senior officials of agencies within the Intelligence Community, in discharging their responsibilities, shall ensure that all activities for which they are responsible are carried out in accordance with the Constitution and laws of the United States.

AUTHORITIES AND DUTIES OF THE
DIRECTOR OF CENTRAL INTELLIGENCE

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Sec. 106. (a) The Director of Central Intelligence, under the direction of the National Security Council, shall be the principal intelligence officer of the United States, shall be the principal adviser to the President and to the National Security Council on intelligence matters, and shall be the principal spokesman to the Congress for the Intelligence Community.

(b) In carrying out his duties under this Act the Director, under the direction of the National Security Council, shall be responsible for the coordination of national intelligence activities of the Government.

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(c) The Director shall head the Office of the Director and the Central Intelligence Agency according to the provisions of this Act.

(d) It shall be the duty of the Director to collect, produce, analyze, coordinate and disseminate, within the Government, intelligence; Provided, that in carrying out these duties, the Director shall:

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(1) have authority to levy analytical tasks on agencies within the Intelligence Community;

(2) have authority to levy collection tasks on agencies within the Intelligence Community to fulfill requirements and priorities established by the National Security Council;

(3) develop, consistent with the requirements and priorities established by the National Security Council, policies, objectives and other guidance for the Intelligence Community in anticipation of future intelligence needs;

(4) promote and direct the development and maintenance of services of common concern to the Intelligence Community; and

(5) formulate policies with respect to intelligence arrangements with foreign governments, and coordinate intelligence relationships between the various agencies within the Intelligence Community and foreign intelligence or internal security services of foreign governments;

(6) establish, as appropriate and notwithstanding the provisions of any other law, committees or other advisory groups to assist in the execution of the foregoing responsibilities.

(e) The Director shall, under the provisions of this Act, ensure implementation of special activities in support of national foreign policy objectives and sensitive intelligence collection operations.

(f) Notwithstanding the provisions of any other law, the Director may, in his discretion, terminate the employment of any officer or employee of the Central Intelligence Agency or of the Office of the Director, whenever he shall deem such termination necessary or advisable in the interests of the United States, but such termination shall not affect the right of any such officer or employee to seek or accept employment elsewhere in the Government if declared eligible for such employment by the United States Civil Service Commission.

(g) The Director shall have full and exclusive authority for approval of the NFIP budget submitted to the President through the Office of Management and Budget and, after approval by the President, the Director shall present the budget to the Congress.

(h) The Director shall be responsible for protecting intelligence sources and methods against unauthorized disclosure, and shall ensure the development and coordination of programs which properly protect intelligence sources and methods.

(i) The Director shall, on a continuing basis, review and evaluate all ongoing and proposed national intelligence activities and special activities in support of national foreign policy objectives in order to ensure that such activities are carried out in accordance with the Constitution and laws of the United States and with Presidential directives.

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(j) The Director shall act as the principal spokesman for the Intelligence Community to the public on matters concerning intelligence activities.

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(k) The Director shall participate with the Attorney General and the legal officers of the agencies within the Intelligence Community in the development of procedures required by this Act and by Executive Order to be approved by the Attorney General governing the conduct of intelligence activities.

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(1) To assist the Director in the fulfillment of responsibilities assigned in this section, the heads of all Executive Branch departments and agencies, in accordance with law and relevant Attorney General procedures and Executive Orders, shall give the Director access to all information relevant to the * intelligence needs of the United States.

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REQUIREMENTS RELATING TO APPROPRIATIONS FOR INTELLIGENCE ACTIVITIES

Sec. 107. (a) No funds may be appropriated for any fiscal year beginning after September 30, 1978, for the purpose of carrying out any intelligence activity unless such funds have been previously authorized for such activity by legislation enacted during the same fiscal year or the two fiscal years immediately preceding that for which they are appropriated, except that the foregoing limitation shall not apply to funds appropriated by any continuing resolution.

(b) The Director is authorized to:

(1) Transfer to and receive from other Government agencies such sums as may be approved by the Office of Management and Budget, for the performance of any of the authorities or duties authorized under this Title, and any other Government agency is authorized to transfer to or receive from the Director such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Director in accordance with this paragraph may be expended for the purposes and under the authority of this title without regard to limitations of appropriations from which transferred;

(2) Exchange funds without regard to section 543 of Title 31; and

(3) Reimburse other Government agencies for services or personnel assigned to the Office of the Director or to the Central Intelligence Agency, and such other Government agencies are authorized, without regard to provisions of law to the contrary, so to assign or detail any officer or employee for such duty.

(c) The Director shall establish guidelines under which proposed reprogramming of funds in the NFIP budget shall require his prior approval; Provided, that the heads of each agency within of the Intelligence Community shall advise the Director of any proposed reprogramming falling within the guidelines; and Provided further, that the Director shall review each such proposal and his approval shall be required for any such reprogramming.

(d) The Director is authorized to maintain a fund to be known as the Reserve for Contingencies (hereinafter in this Section referred to as the "Reserve") and to credit to the Reserve only such newly appropriated monies as are specifically appropriated to the Director for the Reserve. The Director is authorized to expend funds from the Reserve in any fiscal year for the payment of emergency and extraordinary expenses incurred in connection with any intelligence activity or special activity in support of national foreign policy objectives only if:

(1) the withdrawal of funds from the Reserve has been previously approved by the Office of Management and Budget; and

(2) the Appropriations Committees and the Select Committees on Intelligence of the House and the Senate are kept fully and currently informed of all withdrawals; Provided, that the foregoing shall not be construed as requiring the approval of any committee of the Congress prior to the implementation of any such activity.

(e) Any monies in the Reserve so approved for expenditure under the provisions of paragraph (d) of this section but not actually expended for the specific purpose for which approved shall remain in or revert to the Reserve.

(f) Any activity funded from the Reserve which continues after the end of the fiscal year in which such activity was initiated shall be funded thereafter through the regular budgetary process at the earliest practicable time.

(g) The Director may expend funds appropriated to him for objects of a confidential, extraordinary or emergency nature, and such expenditures shall be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount certified therein.

SPECIAL ACTIVITIES AND SENSITIVE
COLLECTION ACTIVITIES

Sec. 108. (a) The National Security Council, in conjunction with the Director of Central Intelligence, shall review and make written recommendations to the President concerning each special activity in support of national foreign policy objectives (hereinafter in this section referred to as "special activity") and each sensitive intelligence collection operation (hereinafter in this section referred to as "sensitive collection operation") or significant proposed change thereto.

(b) No funds may be expended for any special activity, or significant change thereto, unless and until the President has made a written finding that such activity or change is important to the national security of the United States and is consistent with the foreign policy goals of the United States.

REPORTING ON VIOLATIONS; INTELLIGENCE
OVERSIGHT BOARD

Sec. 109. (a) The heads of departments and agencies within the Intelligence Community and their Inspectors General and General Counsels shall be responsible for reporting in a timely manner to the Attorney General and to the Intelligence Oversight Board established by this section, concerning any intelligence activity brought to their attention which may constitute a violation of the Constitution or any law of the United States, or of any Presidential directive; Provided, that the Attorney General and the Intelligence Oversight Board shall advise the President of any such activity which, in their view, constitutes a violation of the Constitution or any law of the United States; and Provided further, that the Attorney General, with due regard to his investigative and prosecutorial responsibilities, shall report periodically to the Select Committees on Intelligence of the House and the Senate concerning such activities.

Added (b) The heads of departments and agencies within the Intelligence Community shall formulate and implement, in consultation with the Director, the Attorney General and the Intelligence Oversight Board, procedures to discover and report on intelligence activities that may constitute violations of the Constitution or laws of the United States, or of any Presidential directive.

(c) Senior officials of agencies within the Intelligence Community shall report to the Attorney General evidence of possible violations of Federal criminal law by an employee of the agency, as well as evidence concerning such violations by any other person as to those Federal criminal laws specified in guidelines promulgated by the Attorney General.

(d) There shall be, under the direction of the President, an Intelligence Oversight Board (hereinafter in this Section referred to as the "Board"), consisting of three members appointed by the President from outside the Government; Provided, that no member of the Board shall have any financial or contractual relationships with any agency within the Intelligence Community; and Provided further, that one member shall be designated by the President as chairman.

(e) The Board shall receive and consider all reports by the Attorney General, the heads of any agency within the Intelligence Community, and the Inspectors General or General Counsels of any agency within the Intelligence Community submitted pursuant to paragraph (a) of this section.

(f) Nothing in this section shall prohibit any employee of any agency within the Intelligence Community from reporting any matter described in paragraph (a) of this section directly to the Attorney General or to the Intelligence Oversight Board.

(g) The Board is authorized to employ such personnel as may be necessary to carry out its functions under this section; Provided, that no such person shall have any financial or contractual relationship with any agency within the Intelligence Community.

(h) The Board shall, upon the request of any member, be granted access to all information relevant to any activity covered by this section in order to carry out its duties under this Act.

REPORTING TO THE CONGRESS

Sec. 110. (a) Consistent with all applicable authorities and duties, including those conferred by the Constitution upon the Executive and Legislative Branches, and with due consideration for the duties under law to protect intelligence sources and methods, the Director and heads of agencies within the Intelligence Community shall:

(1) Keep the Select Committees on Intelligence of the House and the Senate fully and currently informed with respect to intelligence activities, including any significant anticipated activities which are the responsibility of, or engaged in, by such agency; Provided, that the Director shall report to the Select Committees on Intelligence of the House and the Senate in a timely manner the special activities, and significant changes thereto, approved by the President; Provided further, that this does not constitute a condition precedent to the implementation of any such intelligence activity;

(2) Provide any information or document in the possession, custody or control of the agency or person paid by such department or agency, within the jurisdiction of the Select Committees on Intelligence of the House or the Senate, upon the request of such Committee; and

(3) Report in a timely fashion to the Select Committees on Intelligence of the House and the Senate information relating to intelligence activities that are illegal or improper and corrective actions that are taken or planned.